

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

BERTA MORALES,

Plaintiff,

-against-

THE DEPARTMENT OF EDUCATION OF THE CITY
OF NEW YORK,

Defendant.

ANSWER

17 CV 7414 (JMF)

----- X

Defendant, the Board of Education of the City School District of the City of New York, operating as the New York City Department of Education (“DOE”), as and for its answer to the Complaint respectfully allege as follows:

1. Denies the allegations set forth in paragraph “1” of the Complaint, except admit that Plaintiff purports to proceed as stated therein.
2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “2” of the Complaint, except admit that Plaintiff was employed by the DOE at P.S. 70 for approximately thirteen years.
3. Denies the allegations set forth in paragraph “3” of the Complaint.
4. Denies the allegations set forth in paragraph “4” of the Complaint and respectfully refers the Court to the statutes cited therein for a complete and accurate description of their contents. Defendant also refers the Court to the New York State Education Laws for a complete description of the powers and duties of the DOE, and admits that DOE receives funds from multiple sources including some funds which ultimately originate from the federal

government. To the extent paragraph “4” of the Complaint contains conclusions of law, no response is required.

5. Denies the allegations set forth in paragraph “5” of the Complaint except admit that Plaintiff purports to proceed as stated therein.

6. Paragraph “6” of the Complaint sets forth a legal conclusion to which no response is required. To the extent a response is required, Defendant admits that DOE maintains offices at 52 Chambers Street, New York, NY 10007.

7. Paragraph “7” of the Complaint sets forth a legal conclusion to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in paragraph “7” of the Complaint.

8. Paragraph “8” of the Complaint sets forth a legal conclusion to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in paragraph “8” of the Complaint.

9. Paragraph “9” of the Complaint sets forth a legal conclusion to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in paragraph “9” of the Complaint.

10. Denies the allegations set forth in paragraph “10” of the Complaint.

11. Denies the allegations set forth in paragraph “11” of the Complaint.

12. Denies the allegations set forth in paragraph “12” of the Complaint.

13. Denies the allegation set forth in paragraph “13” of the Complaint, and respectfully refers the Court to the statutes and documents cited therein for a complete and accurate description of their contents.

14. Paragraph “14” of the Complaint sets forth a legal conclusion to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in paragraph “14,” and respectfully refers the Court to the document cited therein for a complete and accurate description of its contents.

15. Denies the allegations set forth in paragraph “15” of the Complaint, and respectfully refers the Court to New York Education Law 3020-a for a complete and accurate description of its contents.

16. Denies the allegations set forth in paragraph “16” of the Complaint.

17. Denies the allegations set forth in paragraph “17” of the Complaint.

18. Denies the allegations set forth in paragraph “18” of the Complaint, and respectfully refer the Court to New York Education law Section 3020-a, New York Civil Practice Law and Rules Article 75, and the cases cited therein for a complete and accurate description of their contents.

19. Paragraph “19” of the Complaint contains a statement of law to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in paragraph “19” of the Complaint and respectfully refers the Court to the case cited therein for a complete and accurate description of its contents.

20. Denies the allegations set forth in paragraph “20” of the Complaint.

21. Paragraph “21” of the Complaint contains a statement of law to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in paragraph “21” of the Complaint and respectfully refers the Court to the cases and statutory provisions cited therein for a complete and accurate description of their contents.

22. Paragraph “22” of the Complaint contains a statement of law to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in paragraph “22” of the Complaint and respectfully refers the Court to the cases and statutory provisions cited therein for a complete and accurate description of their contents.

23. Paragraph “23” of the Complaint contains a statement of law to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in paragraph “23” of the Complaint and respectfully refers the Court to the cases and statutory provisions cited therein for a complete and accurate description of their contents.

24. Paragraph “24” of the Complaint contains a statement of law to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in paragraph “24” of the Complaint and respectfully refers the Court to the cases and statutory provisions cited therein for a complete and accurate description of their contents.

25. Paragraph “25” of the Complaint contains a statement of law to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in paragraph “25” of the Complaint and respectfully refers the Court to the cases and statutory provisions cited therein for a complete and accurate description of their contents.

26. Denies the allegations set forth in paragraph “26” of the Complaint.

27. Defendant repeats and re-alleges each of its responses to each of the preceding paragraphs as if fully set forth herein.

28. Denies the allegations set forth in paragraph “28” of the Complaint.

29. Denies the allegations set forth in paragraph “29” of the Complaint.

30. Denies the allegations set forth in paragraph “30” of the Complaint.

31. Denies the allegations set forth in paragraph “31” of the Complaint.

32. Denies the allegations set forth in paragraph “32” of the Complaint.

33. Defendant repeats and re-alleges each of its responses to each of the preceding paragraphs as if fully set forth herein.

34. Denies the allegations set forth in paragraph “34” of the Complaint.

35. Denies the allegations set forth in paragraph “35” of the Complaint.

36. Defendant repeats and re-alleges each of its responses to each of the preceding paragraphs as if fully set forth herein.

37. Denies the allegations set forth in paragraph “37” of the Complaint.

38. Denies the allegations set forth in paragraph “38” of the Complaint.

39. Paragraph “39” of the Complaint contains a statement of law to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in paragraph “39” of the Complaint and respectfully refers the Court to the cases and statutory provisions cited therein for a complete and accurate description of their contents.

40. Denies the allegations set forth in paragraph “40” of the Complaint.

41. Paragraph “41” of the Complaint contains a statement of law to which no response is required. To the extent a response is required, Defendant denies the allegations set forth in paragraph “41” of the Complaint and respectfully refers the Court to the cases and statutory provisions cited therein for a complete and accurate description of their contents.

42. Denies the allegations set forth in paragraph “42” of the Complaint.

43. Denies the allegations set forth in paragraph “43” of the Complaint.

44. Defendant repeats and re-alleges each of its responses to each of the preceding paragraphs as if fully set forth herein.

45. Denies the allegations set forth in paragraph “45” of the Complaint

46. Denies the allegations set forth in paragraph “46” of the Complaint.

47. Denies the allegations set forth in the paragraph following paragraph “46” of the Complaint that is also labeled as paragraph “46.”

**AS AND FOR A FIRST DEFENSE,
DEFENDANT RESPECTFULLY ALLEGES:**

48. The Complaint fails to state a claim upon which relief can be granted.

FOR A SECOND DEFENSE:

49. At all times relevant to the matters alleged in the Complaint Defendant’s actions were reasonable, proper, lawful, constitutional, made in good faith, and without malice and in conformity with all applicable laws, rules, and regulations and Defendant has not violated any rights, privileges or immunities of the Plaintiff under the Constitution or laws of the United States, the State of New York, or any political subdivisions thereof.

FOR A THIRD DEFENSE:

50. Plaintiff’s claims are bared by the doctrines of Res Judicata and Collateral Estoppel.

FOR A FOURTH DEFENSE:

51. Defendant is protected from suit, in whole or in part by the doctrines of absolute immunity, qualified immunity, or common law immunity, or any combinations of these doctrines.

FOR A FIFTH DEFENSE:

52. Plaintiff lacks standing to bring a claim of breach of contract.

FOR A SIXTH DEFENSE:

53. Any actions taken with respect to Plaintiff were undertaken for legitimate, non-discriminatory and non-retaliatory business reasons. The actions taken would have been taken regardless of any alleged protected activity.

FOR A SEVENTH DEFENSE:

54. Any injuries alleged in the complaint were caused in whole or in part by plaintiff's culpable or negligent conduct and failure to mitigate.

FOR AN EIGHTH DEFENSE:

55. Defendant is not liable for punitive damages.

WHEREFORE, Defendant demands judgment dismissing the Complaint in its entirety and denying the relief requested therein, and awarding such other and further relief as this Court may deem just and proper.

Dated: New York, New York
February 9, 2018

Respectfully Submitted,

ZACHARY W. CARTER
Corporation Counsel of the City of New York
Attorney for Defendant
100 Church Street
New York, NY 10007
(212) 356-3574
ksouliop@law.nyc.gov

By: /s/ Katerina Souliopoulos
KATERINA SOULIOPOULOS
Assistant Corporation Counsel